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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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20350 7590 12/19/2008 TOWNSEND AND TOWNSEND AND CREW, LLP TWO EMBARCADERO CENTER EIGHTH FLOOR SAN FRANCISCO, CA 94111-3834				
EXAMINER				
SAINT CYR, JEAN D				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/824,625

Applicant(s)

SIE ET AL.

Examiner

JEAN D. SAINT CYR

Art Unit

2425

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 November 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114.

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/19/2008 has been entered.

Double Patenting

Claims 1, 8, 9, 10, 11, 12 provisionally rejected on the ground of nonstatutory double patenting over claims 14, 15-17, 18, 19, 20, 28 of copending Application No. This is a provisional double patenting rejection since the conflicting claims have not yet been patented.

The subject matter claimed in the instant application is fully disclosed in the referenced copending application and would be covered by any patent granted on that copending application since the referenced copending application and the instant application are claiming common subject matter. Claims 1, 8, 9, 10, 11, 12 are obvious variants and encompassed by claims 14, 15-17, 18, 19, 20, 28 of the application 10300723.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 6,7-14, 16-22,25, 26-28, 30-33, 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rodriguez et al, US Patent Application Publication 2003/0005447 in view of Garfinkle further in view of Levenson , US No. 5331353.

Re claim 1, Rodriguez et al disclose a multi-channel video distribution system (the downstream direction channels, having been multiplexed using frequency division multiplexing, and often referred to as in band channels, include Analog Transmission Channels 210 and Digital Transmission Channels 250. These channels carry video, audio, and data services, 0047) for controlling viewing of a video program by an end user(the subscriber can retrieve and view and hear if applicable information specific to a BC service and proceed to select and purchase a specific BC service for a price over a period of time, 0085; that means the viewing is limited for a period of time), the multi-channel video distribution system comprising:

a program distribution system adapted to provide linearly-scheduled programs with predetermined fights to a plurality of end user viewing devices all limited by the predetermined rights (see fig.11; a headend 11 is configured to provide purchasable bi-directional communication services, either as an on-demand or a scheduled reservation service with a plurality of possible delivery durations,0051; that means programs on the schedule have a specific viewing limit), wherein the linearly-scheduled programs are distributed according to a linear schedule including multiple channels that simultaneously distribute the linearly-scheduled programs (see fig.2; the downstream direction channels, having been multiplexed using frequency division multiplexing , and often referred to as in band channels, include Analog Transmission Channels 210 and Digital Transmission Channels 250. These channels carry video, audio, and data services, 0047; The subscriber navigates an EPG menu presentation with an input device such as a remote control device and selects a purchasable service by choosing the visual representation that corresponds to the desired service, 0006);

a viewing control system in communication with the program distribution system and the end user viewing devices(BSPG database records may also include information such as service active times, service titles, service descriptions, service genres, casts lists, ratings information, price criteria or combinations of multiple price criteria, associated with various viewing options, service durations, 0086; that means there is a control system), the viewing control system, comprising:
a parental control programming function;
a viewing limit configuration menu adapted to receive parental control rules from an end user, wherein:

the parental control rules curtail the predetermined rights to create defined program viewing limits(the user may select the service link 676 to the target service, but the BSPG presentation 670 will display a pop-up barker indicating that the service is not available because it has been blocked by parental control, 0145; that means parents define rule for viewing program).

But Rodriguez did not explicitly disclose the parental control rules define program viewing limits for a plurality, of time periods , the plurality of time periods comprising a first time period and a second time period. wherein:

the first time period comprising a first scheduled start time and a first scheduled stop time and

the second time period comprising a second scheduled start time and a second scheduled stop time; and

a program viewing limit control system that:

counts a first number of viewings of a first program and a second number of Viewings

of a second program during the first time period the first program having a first point value and the second program having a second point value;

determines whether a first time period spent budget based on the first number of viewings of the first program the second number of viewings of the second program the first point value and., the second point value exceeds a first time period viewing limit budget

determines a roll over amount when the first time period. viewing limit budget exceeds the: first time period spent budget, the roll over amount being limited by a parental control rule;

prevents further Viewings of the first program and the second program during the first time period if the first time period spent budget number of viewing exceeds the first time period viewing limit budget defined program viewing limits for the one or more time periods, and inserts a pre- selected program;

counts a third number of viewings of the first program and a fourth number of viewing of the second program during the second time period

determines whether a second time period spent budget based on the third number of viewings of the first program the fourth number of viewings of the second program~ the first point value and the second point. value exceeds a second time period viewing limit budget; and

prevents further viewings of the first program and the second program during the second time period if the second time period spent budget exceeds the second time period viewing limit budget combined with the roll over amount and inserts a pre-selected program.

However, Garfinkle et al disclose a control system at the customer's site limit further access to the stored program after the limit has been reached, col.2, line 36-38; the stored program is erased after a predetermined interval or after a predetermined number of accesses or any combination thereof based on fixed criteria stored at the customer site, col.2, lines 27-29; count of the number of times video data at a certain address location has been accesses, col.4, lines 8-10; this limit data may comprise a time limit or limit the number of accesses to data or both, the microprocessor issues a command to controller 44 to erase the video data stored in the memory or to otherwise block access to the data by the television set, col.4, lines 32-48.

It would have been obvious for any person of ordinary skill in the art at that time the invention was made to combine the invention of Rodriguez with the invention of Garfinkle for the benefit of having a system capable of controlling contents viewed by the users more accurately.

And Levenson et al disclose after entry of the child's access code, the device prompts for the weekly time allowance for that child, by displaying "A1." The allowance hours and minutes is input with the number keys, followed by "ENTER, paragraph 40;

According to the usual operation of the control device as described above, the time remaining in a weekly time allowance is set to the initial value of the time allowance on midnight of day 7. However, the operation of the device may be changed so that the initial value of the weekly time allowance is added to the time remaining at day 7, thereby permitting a child to "save up" time from one viewing period to the next. Implementation of this Roll Over feature involves first pressing the "LOOK" key while in PARENT MODE, paragraph 61.

It would have been obvious for any person of ordinary skill in the art at that the invention was made to combine the system of Rodriguez in view of Garfinkle with the system of Levenson for the purpose of allowing parent to set up different time allowance

for their kids to watch television programs and allowing them to use the roll over technique to add unused time from one period to another period.

Re claim 2, Rodriguez et al wherein the parental control rules define program viewing limits based on one or more criteria selected from the group consisting of time period, program content, or a combination of time period and program content (purchase a specific BC service for a price over a period of time, 0085;).

Re claim 3, Rodriguez et al disclose wherein the program viewing limits can be set to zero for adult content (BC services under the "adult" category, such as, for example, a feature Suzie Floozy displayed in the display of an adult BC service in a BSPG or EPG GUI presentation, are displayed with a lock or PIN icon next to it to reflect PIN access authorization to view this media presentation, 0142; that means authorized users can watch that content).

Re claim 6, Rodriguez et al teach wherein the program viewing limits can be set low for a late night time period (during peak periods, such as 6:00 to 10:59 P.M. of the week nights, a BC service may exhibit higher pricing whereas during certain, 0149; that means viewing limits will set to low because contents are more expensive during that time).

Re claim 7, Rodriguez et al disclose wherein the parental control programming system is adapted to receive and implement defined parental control rules for a plurality of end users and wherein the program viewing limit control system is adapted to apply the defined parental control rules to each of the plurality of end users (The navigator 455 also allows users to access various settings of the DHCT 16, including volume, parental control and VCR commands. Moreover, the navigator 455 provides users with television related menu options that correspond to DHCT 16 functions such as interactive program guides, channel blocking and/or displaying a BSPG purchase list, 0073; that means parental control for end users may apply).

Re claim 8, Rodriguez et al disclose wherein the program distribution system comprises a system selected from the group including a cable programming transmission network, a satellite programming transmissions network, or an audio or video server connected to the Internet (see fig.2; external communication interfaces include router 372, satellite receiver 374, a satellite transceiver 276, a terrestrial receiver or antenna 378 and a bi-directional gateway 380 connected to backbone switch 382 that in turn is connected to components in head end 11 via Ethernet connection 332,0053).

Re claim 9, Rodriguez et al disclose wherein the viewing control system comprises a server located at a program service provider (see fig.3).

Re claim 10, Rodriguez et al disclose wherein the viewing control system is configured with the program distribution system (A purchasable bi-directional communication service may comprise a vendor that communicates remotely with the purchaser over the period of time for which the service is purchased. Particular vendors may offer the flexibility to purchase their respective services for any of a plurality of time durations, reflecting higher pricing for longer periods, 0050; that means the viewing control is configured with the service provider).

Re claim 11, Rodriguez et al disclose wherein the viewing control system comprises a computing device at an end user location in communication with a server located at a program service provider (see fig.1).

Re claim 12, Rodriguez et al disclose wherein the computing device comprises a device selected from the group including a set-top box, a personal video recorder, a video server, a television having set-top box and/or PVR functionality built therein, a personal digital assistant, a portable media center, a portable viewing device, and a personal computing device (see fig.1, DHCT).

Re claim 13, Rodriguez et al disclose the multi-channel wherein the programs comprise programs selected from group including pay per view video on demand programs, near VOD programs, subscription VOD, cable television programs, terrestrially broadcast programs, satellite television programs, and music programs (see fig.11, PPV).

Re claim 14, Rodriguez et al disclose wherein the time period can be based on years, months, weeks, days, portions of days, or hours (see fig.7, \$45 for 60mn; see fig.7, effective now until August 31, 2001; that means based on month).

Re claim 16, see rejection on claim 12.

Re claim 17, Rodriguez et al did not explicitly disclose count a number of viewings of a program during the one or more time periods;

prevent further viewings of the program if the number of viewings exceeds the defined program viewing limits for the one or more time periods.

In an analogous art, Garfinkle et al disclose count a number of viewings of a program during the one or more time periods(count of the number of times video data at a certain address location has been accesses, col.4, lines 8-10);

prevent further viewings of the program if the number of viewings exceeds the defined program viewing limits for the one or more time periods (this limit data may comprise a time limit or limit the number of accesses to data or both, the microprocessor issues a command to controller 44 to erase the video data stored in the memory or to otherwise block access to the data by the television set, col.4, lines 32-48).

It would have been obvious for any person of ordinary skill in the art at that time the invention was made to combine the invention of Rodriguez with the invention of Garfinkle for the benefit of having a system capable of controlling contents viewed by the users more accurately.

Re claim 18, depending on claim 1, see rejection on claim 17.

Re claim 19, Rodriguez et al explicitly disclose wherein the program is delivered as part of a linear schedule of programs (see fig.11).

Re claim 20, Rodriguez et al disclose explicitly receiving linearly-scheduled programs with predetermined rights wherein the linearly-scheduled programs are distributed according to a linear schedule including multiple channels that simultaneously distribute the linearly-scheduled programs (see fig.11; the subscriber navigates an EPG menu presentation with an input device such as a remote control device and selects a purchasable service by choosing the visual representation that corresponds to the desired service; type of purchasable bi-directional service offered by a vendor comprises a finite number of instantiations according to the resources and/or number of individuals that the vendor has to render the service from the remote location; that means the programs are linearly-scheduled and users can watch a program for a specific number of time);

receiving parental control rules from an end user using a viewing limit configuration menu, wherein the parental control rules(The PIN access entry icon may be displayed as a result of the user entering a first PIN access number to allow session purchases of BC services comprising communication of adult material, in accordance with the rating of the BC service. Alternative icons or warning notices or messages alerting the user to PIN access entry requirements may also be employed, 0142; he BSPG presentation 670 is additionally configurable to control the behavior and presence of the bi-directional

services links 676 based on the parental control status of the DHCT 16 as maintained by the navigator 455 application, 0145; that means there is a menu for parental configuration):

curtail the predetermined rights to create defined program viewing (the user may select the service link 676 to the target service, but the BSPG presentation 670 will display a pop-up barker indicating that the service is not available because it has been blocked by parental control, 0145; that means parents define rule for viewing program).

But Rodriguez et al did not explicitly disclose the parental control rules define program viewing limits for one or more time periods; and

a program viewing limit control system that: counts a number of viewings of a program during the one or more time periods;

determines whether the number of viewings exceeds the defined program viewing limits for the one or more time periods; and

prevents further viewings of the program if the number of viewings exceeds the defined program viewing limits for the one or more time periods;

However, Garfinkle et al disclose the parental control rules define program viewing limits for one or more time periods; and a program viewing limit control system(a control system at the customer's site limit further access to the stored program after the limit has been reached, col.2, line 36-38) that:

the parental control rules curtail the predetermined rights to create defined program viewing limits(the stored program is erased after a predetermined interval or after a predetermined number of accesses or any combination thereof based on fixed criteria stored at the customer site, col.2, lines 27-29); and

counts a number of viewings of a program during the one or more time periods (count of the number of times video data at a certain address location has been accesses, col.4, lines 8-10);

determines whether the number of viewings exceeds the defined program viewing limits for the one or more time periods (see fig.3, element 54, limit reached?); wherein the one or more time periods includes a first time period with a scheduled start time and a scheduled stop time (see fig.3, element 54, limit reached?);

prevents further viewings of the program if the number of viewings exceeds the defined program viewing limits for the one or more time periods and inserts a pre-selected

(this limit data may comprise a time limit or limit the number of accesses to data or both, the microprocessor issues a command to controller 44 to erase the video data stored in the memory or to otherwise block access to the data by the television set, col.4, lines 32-48).

It would have been obvious for any person of ordinary skill in the art at that time the invention was made to combine the invention of Rodriguez with the invention of Garfinkle for the benefit of having a system capable of controlling contents viewed by the users more accurately.

And Levenson et al disclose the time remaining in a weekly time allowance is set to the initial value of the time allowance on midnight of day 7, paragraph 61; that means each time period has a starting time and a stopping time.

It would have been obvious for any person of ordinary skill in the art at that the invention was made to combine the system of Rodriguez in view of Garfinkle with the system of Levenson for the purpose of controlling the period of time more accurately.

Re claims 21, see rejection on claim 2.

Re claims 21, 22 see rejection on claim 3.

Re claim 25, see rejection on claim 6.

Re claim 26, see rejection on claim 7.

Re claim 27, see rejection on claim 8.

Re claim 28, see rejection on claim 14.

Re claim 30, see rejection on claim 12.

Re claim 31, see rejection on claim 17.

Re claim 32, see rejection on claim 18.

Re claim 33, see rejection on claim 1.

Re claim 35, Rodriguez et al did not explicitly disclose wherein the program is removed from listings an interactive program guide when the program reaches the defined viewing limit.

However, Garfinkle et al disclose wherein the program is removed from listings an interactive program guide when the program reaches the defined viewing limit (see

fig.3, steps 54 and 58, limit reach?, erase video data; Control unit 22 also erases or otherwise, e.g., scrambles, limits access to the stored data after a use limit specified by the central station or fixed at the customer site have been met or exceeded, col.2, lines 22-26).

It would have been obvious for any person of ordinary skill in the art at that time the invention was made to combine the invention of Garfinkle with the invention of Rodriguez for the purpose of having a system controlling viewing limit more accurately

Claims 4, 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rodriguez in view of Garfinkle further in view of Levenson and further in view of Cragun, US No. 5973683.

Re claim 4, Rodriguez et al did not explicitly disclose wherein the program viewing limits can be set high for educational content.

In an analogous art, Cragun et al disclose wherein the program viewing limits can be set high for educational content (a user profile may be set such that a child may view as many educational program as desired, col.12, lines 16-18; that means there is no limit in viewing programs concerning education, those programs can be set high).

In view of the teaching of Cragun, it would have been obvious for any person of ordinary skill in the art at that time the invention was made to implement wherein the program viewing limits can be set high for educational content into the system of Rodriguez in view of Garfinkle further in view of Levenson. With such option, children will have the opportunity to watch educational programs with no limits.

Re claim 23, see rejection on claim 4.

Claims 5, 15, 24-24,29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rodriguez in view of Garfinkle further in view of Levenson and further in view of Casement, US No. 6144401.

Re claim 5, Rodriguez et al did not explicitly disclose wherein the program viewing limits can be set low for a time period after school.

However, Casement et al disclose wherein the program viewing limits can be set low for a time period after school (see fig.2E; the parental control is only locked the TV for two hours and 30 mn from 2:30 PM to 5:00 PM, this period of time correspond to after school and the television receiver is completely blocked and that situation will allow children to do their homework without trying to watch TV; that means it is obvious that the parental control was set low).

In view of the teaching of casement, it would have been obvious for any person of ordinary skill in the art at that time the invention was made to implement wherein the program viewing limits can be set low for a time period after school into the system of Rodriguez in view of Garfinkle further in view of Levenson. With such option, parents will have the opportunity to reserve time where their children should do their homework.

Re claim 15, Rodriguez et al did not disclose wherein the portions of days comprise morning, afternoon, evening, night and prime time viewing period.

However, Casement et al disclose the user may specify the time to begin locking: the default time is 2:30pm, the time to end locking: the default time is 5pm in paragraph 10.

It would have been obvious to combine the system of Rodriguez in view of Garfinkle with the system of Casement for the benefit of making the system more selective in defining period of time.

Re claim 24, see rejection on claim 5

Re claim 25, see rejection on claim 6.

Re claim 29, see rejection on claim 15.

Claim 34 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rodriguez in view of Garfinkle further in view of Levenson and further in view of Larocca, US No. 6314572.

Re claim 34, Rodriguez et al did not explicitly disclose further comprising an advertising screen presented if the number of viewings exceeds the defined program viewing limit for the one or more time periods.

However, Larocca et al disclose If the price that is returned to the video session manager is zero dollars, then the video session manager sends, at step 348, an applet for a display of a title information screen (col.11, lines 6-9; that means whenever a user tries to access a content outside of subscription time, a title information screen will be displayed instead of displaying the desired program)

It would have been obvious for any person of ordinary skill in the art at that time the invention was to combine the invention of Larocca with the invention of Rodriguez in view of Garfinkle and further in view of Levenson for the purpose of allowing users to receive commercial whenever the number of viewing limit exceeds..

Response to Arguments

Applicant's arguments with respect to claims 1-35 have been considered but are moot in of the new ground(s) of rejection. The amendment to the claims necessitated the new ground(s) of rejection discussed above. This office action is non-final.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jean Duclos Saintcyr whose phone number is 571-270-3224. The examiner can normally reach on M-F 7:30-5:00 PM EST. If attempts to reach the examiner by telephone are not successful, his supervisor, Brian Pendleton, can be reached on 571-272-7527. The fax number for the organization where the application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Retrieval (PAIR) system. Status information for published applications may be obtained from either private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, dial 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Brian T. Pendleton/

Supervisory Patent Examiner, Art Unit 2425